

CITY OF WEST LAFAYETTE
COMMON COUNCIL
PRE-COUNCIL MINUTES
MAY 28, 2015

The Common Council of the City of West Lafayette, Indiana, met in the Multi-Purpose Room at the Morton Community Center on May 28, 2015, at the hour of 4:30 p.m.

Mayor Dennis called the meeting to order and presided.

Present: Bunder, Burch, DeBoer, Dietrich, Hunt, Keen, and Thomas.

Also present were City Attorney Burns, Clerk-Treasurer Rhodes, Public Works Director Buck, Facilities Director Clark, Police Chief Dombkowski, Parks Superintendent Fawley, Human Resources Director Foster, Fire Chief Heath, WWTU Director Henderson, Street Commissioner Payne, and Director of Development Poole.

REPORT OF APC REPRESENTATIVE

Councilor Keen stated that the discussion about New Chauncey is continuing at the APC Ordinance Committee meeting on June 3.

SPECIAL REPORTS: None

UNFINISHED BUSINESS:

Ordinance No. 16-15 An Ordinance To Establish The Cumulative Capital Development Fund And Readopt West Lafayette City Code Provisions Concerning The Fund (Prepared by the Clerk-Treasurer) PUBLIC HEARING

Mayor Dennis read Ordinance No. 16-15 by title only.

There was no discussion.

NEW BUSINESS:

Ordinance No. 18-15 An Ordinance To Amend Ordinance No. 04-15, An Ordinance To Fix The Salaries Of Appointed Officers, Employees, And Members Of The Police And Fire Departments Of The City Of West Lafayette, Indiana, For The Year 2015 (Submitted by Mayor John Dennis)

Mayor Dennis read Ordinance No. 18-15 by title only.

Police Chief Dombkowski stated that this is for an additional position. He stated that the Department has had an unfilled part-time parking control position for more than a year that will not be filled, and will instead be rolled into this new position. He stated that there is currently enough in this year's budget to fund the position. He explained that this is a slight restructuring that puts an officer back out for officer duties. The position mostly consists of a Property Evidence Manager, which is a model adopted from the City of Lafayette. It shifts those duties to civilian personnel and frees up an officer. He stated that the Department is also looking to have the position run the expanding programs, including RAD and Citizens Police Academy, for community outreach.

Mayor Dennis stated that the public outreach program is important for getting our message out there.

Chief Dombkowski agreed and stated that it is something we have benefited from as a Police Department and as a City. Chief Dombkowski confirmed for Councilor Burch that this will be a civilian position. He confirmed for Councilor Hunt that this hiring process does not include the Police Merit Commission. In response to a question from Clerk-Treasurer Rhodes, Chief Dombkowski stated that he would prefer to have two readings at the June 1 Council meeting.

There was no further discussion.

Resolution No. 12-15 Resolution Of The Common Council Of The City Of West Lafayette, Indiana Authorizing The City Attorney To Exercise The City's Power Of Eminent Domain (Submitted by City Attorney)

Mayor Dennis read Resolution No. 12-15 by title only.

City Attorney Burns stated that this resolution is a result in a change in the law. The City has the power of eminent domain, and until recently the Redevelopment Commission (RDC) had an independent power of eminent domain. The State statute now requires that any exercise now has to be approved by the Council. He stated that Public Works Director Buck has been in contact with the property owner about the offer that has been made, and the owner wants more than the offer. City Attorney Burns stated that when negotiating, he has found it best that when it reaches a certain point and does not look like it will get solved quickly, then getting a case on file often speeds things along in the negotiations. He stated that by doing this it does not file the lawsuit, but it authorizes the City Attorney to go forward if he is so directed, if it does not look like it can get settled.

Councilor DeBoer asked what the just compensation is for the piece of property that would be accepted, and if City Attorney Burns can say what the offer is that has been rejected.

City Attorney Burns stated that we can we can give the appraisal.

Director Buck described the property, between Fowler and Northwestern Avenues [360 Northwestern Avenue], and stated that at that point of the property there is 399 square feet in the take and it has been appraised. He stated that 90 square feet of it is an apparent existing right of way, which was appraised at a lesser amount. The total appraisal amount was \$17,420. In response to a question from Councilor Hunt, Director Buck stated that there has only been one appraisal at this time.

Councilor Dietrich asked how close we are and what the counter offer is.

City Attorney Burns responded that it is not close enough to feel confident that we can get it settled without the possibility of being able to file.

Councilor Burch asked if this needs to go back to the RDC after the Council deals with resolution.

City Attorney Burns responded that it would; the RDC would authorize the expenditure because it is from RDC funding sources. He stated that this is merely authorizing the City to use the eminent domain power, and once it is authorized then it is back to the RDC to pay for it and do everything else related to the eminent domain.

Councilor Hunt stated that she noticed that the resolution talks about going to either the Circuit or Superior Court. She asked what the process is after the Council approves it.

City Attorney Burns responded that there is a very specific statutory procedure. The first thing the City had to do was to do an appraisal and make a written offer. If the written offer is not accepted within 30 days then it would be eligible to file a lawsuit. He stated that it has been more than 30 days. The next step, if it does not get resolved between the parties, is for City Attorney Burns to file a complaint in condemnation in either the Circuit or Superior Court. That would involve a court hearing on whether the take is necessary. In response to a question from Councilor Hunt, City Attorney Burns explained that it is called a taking or a condemnation. He stated that you have to give just compensation for any taking, and the court would determine whether or not it is appropriate use of public property. Then the question would become the price, which would be set by either a judge or a jury.

Councilor Burch asked if the just compensation only includes the appraisal of the land, or does it take into consideration any other financial losses that the owner may incur.

City Attorney Burns stated that it is a total compensation, and under State law it takes into account both the square-foot value of the property and any damages to any of the remaining property after the take. He stated that the statute is very specific in what can be compensated and what is not compensated. He stated that we have made an offer of compensation in all that areas that we believe are appropriate.

There was no further discussion.

Resolution No. 13-15 A Resolution Appropriating The Necessary Funds Resulting From The 2015 Community Development Application Of The City Of West Lafayette Under Title I Of The Housing And Community Development Act Of 1974, As Amended (Submitted by Department of Development)

Mayor Dennis read Resolution No. 13-15 by title only.

There was no discussion.

Resolution No. 14-15 Resolution Of The Common Council Of The City Of West Lafayette, Indiana, Approving An Amendment Of The Plan For The Levee/Village Redevelopment Area (Submitted by Department of Development)

Mayor Dennis read Resolution No. 14-15 by title only.

City Attorney Burns stated that we will be asking for an amendment on this resolution. He stated that the original resolution, as filed, was very brief. The amendment gives more definition and detail. He stated that the purpose behind the resolution is to save the legacy TIFs due to the change in State law. The three TIFs would go away unless we do something in each of those. He stated that with the assistance of bond counsel this resolution is put forward to create an obligation, which will be paying for lighting and other safety improvements in an amount not to exceed \$300,000 in each of the three TIF areas. He stated that this resolution is the first step in getting that done, and then there will be a financing put together once this is authorized. He stated that the RDC has passed a resolution [Resolution No. RC 2015-6] that recommends this action.

Councilor Bunder asked if we know what the lighting and safety improvements are.

Director of Development Poole responded that we worked with Director Buck to look at capital improvement projects in each one of the legacy TIF districts. There are lighting projects in each

one and Director Buck has identified where he would like the improvements to go. He described the planned locations for the lighting.

Councilor Dietrich stated that the Councilors occasionally get requests or concerns from residents about dark corners. He asked if there is any avenue where we can include these requests, or if the funds are already obligated. He confirmed for Director Buck that he is asking about individual locations. He asked if this is a fund where we could possibly accommodate some of those concerns.

Director Buck responded that on a case-by-case basis, the individuals can contact the Engineering Department. He explained that many times we can have those lights added by the electric company. He stated that these will be the decorative type of street light that we own, install, maintain, and provide a service point to the power company.

Councilor Hunt asked if these will be in residential areas.

Director Buck responded that on Cumberland Avenue it will be lighting for Phase 3.

Councilor Hunt stated that when we first annexed there were people in the farmlands who were concerned about too much light. She asked if that is a complaint that is often received.

Director Buck responded that it does not happen often lately because the lighting industry and the type of fixtures we have been using are very night sky friendly. They are LED lights and do not have a lot of light spread away outside of the right of way.

Councilor Thomas asked if we know that the \$300,000 amount meets the State requirements.

Mayor Dennis stated that it is just that you must go into the hole to meet the State requirements.

Councilor Bunder thanked Councilor Dietrich for raising an issue that he hears a lot of time too. He asked if the City is looking for new projects to add to TIFs so that it can be further encumbered. He stated that he has a Land Use Plan showing dark streets. He stated that if there was money available at some point he would like to talk about that.

Mayor Dennis stated that we can look into that.

City Attorney Burns requested that the Council consider making the amendment to the resolution at this meeting to allow it to be on the agenda in a clean fashion at the Council meeting. He noted that the amendment has been made available on the agenda.

Councilor Keen motioned to amend Resolution No. 14-15 by substitution. Councilor Burch seconded the motion, and the motion passed by voice vote.

Mayor Dennis stated that Resolution No. 14-15 is now amended.

There was no further discussion.

Resolution No. 15-15 Resolution Of The Common Council Of The City Of West Lafayette, Indiana, Approving The Issuance Of Three Separate Series Of Tax Increment Revenue Bonds For The Purpose Of Providing Funds To Pay For Redevelopment Projects And Incidental Expenses In Connection Therewith And On Account Of The Issuance Of The Bonds (Submitted by Department of Development)

Mayor Dennis read Resolution No. 15-15 by title only.

City Attorney Burns ask that Resolution No. 15-15 be shown as withdrawn. He stated that speaking on behalf of the Department of Development, this resolution is no longer necessary. He stated that Resolutions Nos. 14-15 and 15-15 were filed on the filing deadline while bond counsel had been on vacation. When bond counsel returned it was decided that this could be done more simply, and it is now all contained within Resolution No. 14-15 as just amended. He stated that Resolution No. 15-15 is no longer needed and serves no purpose. He asked that the Chair show it as withdrawn, or withdraw with the consent of Council.

Councilor Keen motioned to withdraw Resolution No. 15-15. Councilor Burch seconded the motion, and the motion passed by voice vote.

There was no further discussion.

Resolution No. 16-15 A Resolution Requesting The Transfer Of Funds (CCD-IT) (Prepared by the Clerk-Treasurer)

Mayor Dennis read Resolution No. 16-15 by title only.

Facilities Director Clark stated that he is requesting a transfer of funds. He stated that the IT Department has not used anything out of the Other Equipment fund this year, but there have been some Repair/Maintenance issues for the City and those funds are getting low.

There was no further discussion.

COMMUNICATIONS

► Councilor Dietrich stated that he has a question involving the ongoing saga of the signage issue. He asked what can be done or who should be contacted with a violation is seen. He asked how we are putting the landlords on notice that there is a change in emphasis since we chose not to write an ordinance, and we determined that it is already in our policy. He asked if anything was sent out to the landlords.

City Attorney Burns stated that there was not anything sent to the landlords. He stated that what has occurred is that since the law already prohibited the rental signs being perpetually up, we have changed the form that is used for applying for a rental certificate. It is now in the rental certificate application for the landlord to acknowledge it. It is explained that the sign can be up as long as the residence is not occupied or leased, but it cannot be up for more 30 days before the occupancy is up. City Attorney Burns stated that if there is a violation then the Neighborhood Resource Team (NRT) should be contacted.

Councilor Dietrich asked if we are not concerned that we have not really put the landlords on notice until they renew their rental certificate.

City Attorney Burns stated that the way our NRT works is to inform people when there is a violation. They go to the door or send a letter and explain the situation, and in most cases the violation disappears. He stated that in his opinion, because of the way NRT works, that rather than send out a letter that may miss some or be ignored, it seemed better to take it up on a case-by-case basis if there is a violation.

Councilor Bunder stated that that it does not look like it will be a vigorous political season, but asked if we are going to say anything about political signs.

City Attorney Burns stated that there will be a letter that goes out. In response to a question from Councilor Dietrich, City Attorney Burns stated that the first thought is that the letter will go out from the Administrative Officer, which is Director Buck. In response to a question from Councilor Burch, City Attorney Burns stated that the plan is to send the letter to the Chairmen of both political parties and also to any declared candidates. He stated that the letter will be sent out after the June 30 filing deadline so that we know who all of the candidates are.

ADJOURNMENT

There being no further business at this time, Councilor Burch moved for adjournment. Mayor Dennis adjourned the meeting, the time being 4:58 p.m.